



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

JOSEPH LOMASCOLO, *et al.*,)
Plaintiffs,)
v. .) Civil Action No. 1:08cv1310 (AJT/JFA)
ALLTECH, INC., *et al.*,)
Defendants.)

RULE 16(B) SCHEDULING ORDER

Pursuant to Fed. R. Civ. P. 16(b) and this court's December 18, 2008 Order, an initial pretrial conference was held in this matter on January 7, 2009. Upon consideration of the representations made by the parties in their Proposed Discovery Plan (Docket no. 134) and for the reasons discussed during the pretrial conference, the court makes the following rulings:

1. The parties' Proposed Discovery Plan is approved in part and shall control discovery to the extent of its application unless further modified by the court.
2. All Fed. R. Civ. P. 26(a)(1) disclosures shall be completed by January 16, 2009.
3. Any motion to amend the pleadings shall be made as soon as possible after counsel or the party becomes aware of the grounds for the motion. Any "Consent to Become a Party Plaintiff" shall be filed as soon as practicable after receipt by counsel for plaintiffs.
4. Counsel do not anticipate encountering issues concerning the disclosure or discovery of electronically stored information, but agree to discuss any such issues to the extent they arise.

5. To the extent any party intends to assert a claim of privilege or protection as trial preparation material, any such claim must be made in a timely manner and in accordance with Fed. R. Civ. P. 26(b)(5).

6. Filings under seal are disfavored and discouraged. *See Va. Dep't of State Police v. Washington Post*, 386 F.3d 567, 575-76 (4th Cir. 2004). Any motion to file a document under seal, including a motion for entry of a protective order containing provisions for filing documents under seal, must comply with Local Civil Rule 5 and must be noticed for a hearing in open court. The motion must state sufficient facts supporting the action sought, and each proposed order must include specific findings.

7. A paper copy of any non-dispositive motion and all papers relating to the motion shall be **delivered directly to the chambers of the undersigned magistrate judge upon filing**. *See ECF Policies and Procedures, Alexandria Courtesy Copy Information.*

8. All motions, except for summary judgment, shall be noticed for a hearing on the earliest possible Friday before the final pretrial conference. Ten working days' notice is required for motions to dismiss, for summary judgment and for judgment on the pleadings. **A non-dispositive motion must be filed by 5:00 p.m. the Friday before the Friday for which it is noticed, with a response due by 5:00 p.m. the Wednesday before the hearing.** All motions must contain a statement that a good-faith effort to narrow areas of disagreement has been made in accordance with Local Civil Rule 7(E) and Local Civil Rule 37(E) for discovery motions.

9. All Fed. R. Civ. P. 12 issues shall be raised in one pleading unless leave of court is first obtained. All summary judgment issues shall be presented in the same pleading unless leave of court is first obtained.

10. All motions must adhere to the page limits set in Local Civil Rule 7(F)(3). No pleading shall be in type less than ten (10) pitch or twelve (12) point.

11. Disclosures under Fed. R. Civ. P. 26(a)(1) and (2), notices of depositions, interrogatories, requests for documents and admissions, and answers thereto shall not be filed except on order of the court, or for use in a motion or at trial.

12. In the event this case is tried before a jury, each party shall file their proposed jury instructions and voir dire five (5) business days prior to trial in accordance with Local Civil Rule 51. Violation of this Rule will constitute a waiver of objections to any instructions given. In the event the case is tried without a jury, counsel shall file written proposed findings of fact and conclusions of law prior to the beginning of trial.

13. Counsel shall appear before the undersigned magistrate judge on Wednesday, March 11, 2009 at 10:00 a.m. for a status conference. In anticipation of that conference, counsel shall file a status report with the court by Wednesday, March 4, 2009 providing a description of the total number of plaintiffs joining this action, the current status of discovery and counsels' good faith estimate of when expert disclosures can be served and discovery completed.

Entered this 9th day of January 2009.

/s/ JFA
John F. Anderson
United States Magistrate Judge
John F. Anderson
United States Magistrate Judge

Alexandria, Virginia